

REMARKS

Claims 1-50 are pending in this application and are subject to a restriction requirement.

The Restriction Requirement

The Examiner has required an election under 35 U.S.C. § 121 of one of the following inventions:

- Group I: Claims 1-4, 33 (in part), 34 (in part), 37-41 (in part), 43 (in part), 45-47 (in part), and 49 (in part), drawn to a method for identifying a compound that modulates a tissue protective activity, comprising measuring the level of tissue protective cytokine receptor complex activity by measuring the binding of the test compound to the tissue protective cytokine receptor complex, classified in class 435, subclass 7.1;
- Group II: Claims 5-10, 16-20 (in part), 29-32 (in part), 43-50 (in part), drawn to a method for identifying a compound that modulates a tissue protective activity, comprising measuring the tissue protective cytokine receptor complex activity by a cell proliferative assay, classified in class 435, subclass 4;
- Group III: Claims 11, 12, 16-20 (in part), 29-32 (in part), 43-50 (in part), drawn to a method for identifying a compound that modulates a tissue protective activity, comprising a test compound with a cell which is recombinantly engineered to express an EPO receptor and a β common receptor polypeptide measuring the tissue protective cytokine receptor complex activity by a cell proliferative assay, classified in class 435, subclass 4;
- Group IV: Claims 13, 14, 16-20 (in part), 31 (in part), 32 (in part), 43-50 (in part), drawn to a method for identifying a compound that modulates a tissue protective activity, comprising contacting a test compound with a tissue protective cytokine receptor complex-expressing cell, wherein said cell is transformed with a nucleic acid comprising a nucleotide sequence that encodes a reporter gene, classified in class 435, subclass 6;
- Group V: Claims 15, 16-20 (in part), 43-50 (in part), drawn to a method of identifying a compound that modulates a tissue protective activity, comprising contacting a test compound with a cell comprising (i) a first fusion protein comprising the

DNA binding domain of a transcriptional activator and a first tissue protective cytokine receptor polypeptide and (ii) a second fusion protein comprising an activation domain of a transcriptional activator and a second tissue protective cytokine receptor, classified in class 435, subclass 6;

Group VI: Claim 21, drawn to a method of identifying a compound that modulates the activity of a tissue protective cytokine receptor complex, comprising determining the level of activity of a tissue protective cytokine receptor complex by measuring the level of reporter gene expression in a cell of a modified yeast strain, classified in class 435, subclass 5;

Group VII: Claims 22-27, 31-41 (in part), 43-50 (in part), drawn to a method for identifying a compound that binds to a tissue protective cytokine receptor complex, classified in class 435, subclass 7.1;

Group VIII: Claim 28, 29-41 (in part), 43-50 (in part), drawn to a method for identifying a compound that modulate the interaction between a tissue protective cytokine receptor complex and its ligand by measuring the tissue protective cytokine receptor complex activity, classified in class 435, subclass 5;

Group IX: Claim 42, 43-50 (in part), drawn to a method for identifying a compound that binds a tissue protective cytokine receptor complex, comprising contacting a test compound with a ligand-binding tissue protective receptor complex fragment comprising at least one EPO receptor extracellular domain and at least one β common receptor extracellular domain fused to an Fc fragment attached to a solid support, classified in class 435, subclass 7.1;

Applicants hereby elect with traverse to prosecute Invention IV, drawn to a method for identifying a compound that modulates a tissue protective activity, comprising contacting a test compound with a tissue protective cytokine receptor complex-expressing cell, wherein said cell is transformed with a nucleic acid comprising a nucleotide sequence that encodes a reporter gene (claims 13, 14, 16-20 (in part), 31 (in part), 32 (in part), 43-50 (in part)).

Applicants request that Group VI be examined together with elected Group IV. The method of Group IV (see claim 13) requires that the test compound is contacted with a cell expressing (i) a reporter gene that is under the control of tissue protective cytokine receptor complex activity, and (ii) a tissue protective cytokine receptor complex.

Similarly, the methods of Group VI (claim 21) require that the test compound is contacted with a cell expressing (i) a reporter gene that is under the control of tissue protective cytokine receptor complex activity, and (ii) a tissue protective cytokine receptor complex, wherein the cell is a yeast cell. Thus, examining both groups together would not impose and undue burden on the Examiner (See M.P.E.P. § 803).

CONCLUSION

Applicants respectfully request that the above remarks and amendments be entered and made of record in the present application file.

Respectfully submitted,

*by: Sebastian Markwick
Reg. No. 52,413*

Date: March 9, 2007

Laura A. Coruzzi

Laura A. Coruzzi

30,742

(Reg. No.)

JONES DAY

222 East 41st Street

New York, New York 10017

(212) 326-3939